

CALIFORNIA APPRENTICESHIP COUNCIL
QUARTERLY MEETING
MINUTES OF THE MEETING

SHERATON UNIVERSAL HOTEL, UNIVERSAL CITY
OCTOBER 26-27, 2006

THURSDAY, OCTOBER 26, 2006

I. CONVENE REGULAR QUARTERLY MEETING TO ORDER

- A. The Pledge of Allegiance was led by Commissioner Cedric Porter.
- B. Roll Call – All Commissioners were in attendance. A quorum was present.
- C. Minutes of previous meeting: July 27-28, 2006
It was moved and seconded that the minutes from the July 27-28, 2006 CAC quarterly meeting be approved. None opposed. The motion was carried.
- D. Announcements
 - 1. Acting DIR Director John Rea introduced the new commissioners: Dina Kimble, Patrick McGinn and Jose Millan. Each new commissioner was asked to talk briefly about himself/herself. They were sworn in before the general session of this quarter's CAC meeting.
 - 2. Chairperson Turchen announced that there were a few minor schedule adjustments to the October 26 agenda: Barry Noonan will report after the standing committee reports; CAAAT report will follow Dr. Noonan's and Richard Dahl's report.
 - 3. A new CAC chairperson for next year will be elected.
 - 4. Two software vendors that have worked closely with DAS to create Electronic Data Interchange (EDI) had an exhibit of their company outside the meeting room. None was being endorsed by the DAS.
- E. Communications
Chief Rowan announced the following communications to the CAC:
 - 1. Letter from Community College Chancellor appointing Jose Millan as his representative to the CAC
 - 2. The State Bureau of Audits letter on the audit of DAS
 - 3. The Plasterer's Appeal and related communications associated with the appeal

II. BUSINESS SESSION

A. Old Business

- 1. State Audit of DAS and CAC – DAS Chief Dave Rowan

Chief Rowan presented a summary of findings, recommendations and what actions DAS will take based on the audit's recommendations. He summarized the report and DAS' response in a power point presentation and stressed that

DAS is committed to taking action on the audit findings and is being proactive. (See attached.)

Commissioner Hodess asked about funding audits and partially using training contribution funds for the purpose of auditing the programs. Chief Rowan said that DAS is awaiting approval for its request for additional staffing, which is expected early next year.

Jack Gavett asked about the staffing of the San Diego office. He was informed by Chief Rowan that a new employee will report at the San Diego office in November. A retired annuitant will also continue to work until the vacant administrative position is filled.

2. Cal Plan Review Results – Glen Forman

DAS Deputy Chief Forman explained the CalPlan review process. 114 programs were randomly selected for reviews. Mr. Forman informed the group that the corrective action letters sent out were mainly for names in the selection process not matching the program where they were listed. He emphasized that the people in the program should match exactly the program they are put in. DAS also found that people were using dual lists. He was not sure what will happen with the Federal de-recognition and how it will affect Cal Plans. He also touched on the female intake goal not being reached by any of the programs and needed to look at a more attainable goal (less than 11-1/2%).

B. Automatic Orders of the Council – There were none.

C. Notice of Appeals to the Council During the Quarter

1. Southern California Plasterers JATC – Case # 06-CAC-002
This case will be heard on October 27, 2006.

D. Electrician Certification Report – Chief Rowan

A short video to introduce the electrician report and statistics was shown. Chief Rowan reported on the statistics related to electrician certification through a power point presentation. (See attached)

Commissioner Garcia inquired regarding the statistics of the Spanish language test pass rate, which is about 5%. Chief Rowan commented that detailed review by DAS suggests that the problem is not a translation issue, but is likely related to the applicant's unfamiliarity of technical electrical terms in Spanish. Jack Yapp from the California Electrical Training company suggested that his students pass the Spanish test because his process familiarizes them with the computerized format of the test.

Beginning in early 2007, electrician tests that are based upon the 2002 code will be available. Applicants will be allowed to select a test based upon either the 1999 code or the 2002 code for the first six months of the 2002 test availability. After that time, only the exams based upon the 2002 code will be available.

AB2907 was recently signed by the Governor. This legislation added private post-secondary schools to the education providers who may be approved by DAS. It also extended the certification date to January 2008 for the Voice / Data / Video and Non-Residential Lighting Technicians. It also gave the CAC authority to further extend the deadline to January 2009, if necessary, and to extend the residential deadline to January 2009. DAS is currently not recommending an extension for the Residential certification. Also, the statute that allowed the CAC to create industry-wide training standards will expire on January 1, 2007. This bill extended the CAC's authority for five more years.

Don Davis inquired regarding the process on updating to the 2002 code. Chief Rowan said that the testing firm is able to identify which questions need to be revised but he has not seen the final product. The results will be shared with the electrician community when they become available. DAS has been informed that the 2002 code book will not be available in Spanish.

Commissioner Quick continued the discussion about rulemaking. She introduced the members of the task force and gave an update on the activities and issues the task force was working on.

E. New Business

The committee to choose the next chairperson for 2007 comprised of Commissioners Anne Quick (employer representative), Neil Struthers (employee representative) and Max Turchen (public representative).

III. CAC STANDING COMMITTEE REPORTS

- A. Equal Opportunity Committee Report – Anne Quick
Meeting of September 6, 2006 – 10:30-11:30 A.M. (Minutes attached.)
- B. California Conference on Apprenticeship (CCA) Committee Report – Darell Lawrence
Meeting of October 25, 2006 – 1:30 – 3:30 P.M. (Minutes attached.)
- C. Legislation Committee Report – William Callahan, Jr.
Meeting of October 25, 2006 – 3:30 – 5:00 P.M. (Minutes attached.)
- D. Rules, Regulations & Operating Procedures Committee Report – Aram Hodess
Meeting of October 26, 2006. – 9:00 – 11:00 A.M. (Minutes attached.)
- E. Forums Committee Report – Neil Struthers
Meeting of October 26, 2006 – 11:00 – 12 noon (Minutes attached.)

IV. EDUCATION AGENCIES REPORT

- A. California Community College Chancellor's Office - Barry Noonan
(See attached handouts)
- B. California Department of Education - Richard Dahl and Al Tweltridge
(See attached handouts)

Commissioner Hodess inquired if there were incentives for school counselors to develop materials on encouraging vocational education. Al Tweltridge answered that there are no fiscal incentives for school counselors but is something worth looking into.

Commissioner Zampa articulated that the reason why kids are being indentured at an older age was because they were not getting paid a decent wage; consequently, they end up working for non-union contractors that exploit them.

V. REPORTS OF ADMINISTRATIVE and COOPERATING AGENCIES

- A. California Association for the Advancement of Apprenticeship and Training (CAAAT) – Trish Black (Report attached.)
A video “Where Are They Now?” was shown featuring apprentices whose lives have improved/changed because of their apprenticeship training. Two of the graduates on the video, Michael DeVaney and Karen Vinciguerra spoke to the CAC about their experiences and successes.

VI. FORUM

Chief Rowan introduced Renee Bacchini, Public Information Officer of the Department of Industrial Relations, who gave a power point presentation which demonstrated the critical need for future craftspeople in the building trades to meet the demand of bond measures that are on the November ballot. Research suggests that an additional 144,000 skilled craftspeople will be needed to complete the construction projects if all bond measures pass.

Commissioner Quick spoke about the Women's Report and the Blue Ribbon Committee on Women in Apprenticeship and addressed the need to attract, recruit and retain women in apprenticeship. She acknowledged former CAC Commissioner Jeannie Holmes who worked hard on this project. She also acknowledged the hard work of the committee members and the support of the CAC Commissioners. She introduced Lilly Rodriguez who talked about the Blue Ribbon Committee Report aided by a power point presentation (attached.) Ms. Rodriguez thanked all the tradeswomen who participated in the survey and hearings and the Department of Education who helped them mail the surveys and compile the results.

Ms. Bacchini called upon the following speakers to expound on Recruitment, Retention and Leadership respectively: Alexandra Torres-Galancid from WINTER, Nikki Freeman from EMPOWER, and Beth Youhn from TRADESWOMEN, INC.

Adrienne Monroe from California Coalition for Construction in the Classroom gave a presentation about her agency and their outreach activities to promote apprenticeship. She showed a short video put together by an amateur videographer on their career technology activity.

Ms. Bacchini wrapped up by inviting everyone to the November 29 forum on promoting apprenticeship, which will be held in San Francisco.

Before adjourning for the day, Chairperson Turchen reminded everyone that the meeting tomorrow will reconvene promptly at 9:00 a.m.

FRIDAY, OCTOBER 27, 2006

I. The CAC meeting reconvened and was called to order at 9:00 a.m.

- A. The Pledge of Allegiance was led by Commissioner Pat McGinn.
- B. Roll Call – Chief Rowan called the roll. All the Commissioners were in attendance.
A quorum was present.
- C. Announcements
 - 1. Julian Standen, counsel for the CAC, missed his flight and will not be able to make it to the meeting. He will be standing by the phone at his office if the Council needs to get in touch with him during the meeting.
- D. Communications
There were no communications.

II. EXECUTIVE SESSION - There was no need for an executive session.

III. BUSINESS SESSION

A. Legal Matters

- 1. OATELS – De-recognition Proceedings 29 CFR 29.13
No change to report.
- 2. California Pipe Trades, et. al. v CAC, San Francisco Superior Court Case No. CPF 05-505615, Court of Appeal, First District, Div. 2, No. A113150
No change to report.

B. CAC Action on the Appeal Panel's Recommended Decision

(Note: A detailed transcription of the discussion of this appeal is available.)

- 1. Southern California Plasterers JATC - Case # 06-CAC 002
Commissioner Callahan read the panel's decision on the above appeal. The conclusion of the panel: Majority of the panelist recommended that the Chief's decision be reversed. There was one dissent which recommended that the Council uphold the Chief's decision. (See attached)

Commissioner Callahan made a motion that the Council adopt the majority panelists' recommendation that the Chief's decision be reversed. Commissioner Zampa seconded the motion. Chairperson Turchen opened the floor for discussion.

Mr. Jack Davis, lawyer for the Southern California Plasterers Joint Apprenticeship Committee and Plasterers Local Union #200, argued why the Chief's decision to approve the program should be reversed:

- The program does not meet the test for the need standard under Labor Code Section 3075(b). The EDD statistics that the Chief used to base his decision for the need standard is outdated.

- Jurisdictional Issues. Under Labor Code Section 3073(3), its approval would adversely affect the welfare of apprentices and the administration of apprentices in general. Jobs will be taken away from existing apprentices.
- The approved program does not meet the prerequisites of Regulation 212.2(a) and Section 205 because the program did not provide evidence that it could provide training and supervision in all the work processes of plastering.

Based on the above, he proposed that the Council adopt the majority panelists' decision.

Mr. Dan Shanley, attorney for the Carpenters JATC, argued for the Carpenters' Program for Plasterers. He urged the Council to adopt the Chief's decision for the following reasons:

- There is a present and future need for more plasterer programs in Southern California. The current program only has one facility in Southern California and can not have a monopoly of the area.
- They have committed enough resources dedicated to train plasterers. It is real and it exists. They have been approved by the Federal government.
- The EDD statistics used by the Chief, even with the projected reduction in the current figures cut in half, will not provide for enough apprentices for plasterers. The current program graduates only 45 apprentices.

Commissioner McGinn raised a question about the 45 graduates mentioned by Mr. Shanley. 45 was the number of graduates statewide. Southern California only graduates an average of 19 apprentices. Chief Rowan said that 45 was outdated. The current number of graduates statewide was 41 and Southern California graduated an average of 17 or 19, based on September statistics.

Mr. Davis alleged that Mr. Shanley mentioned untrue facts, i.e., one-month agreements which are no longer used; the number of facilities they have; EDD statistics which were merely projections and should not be used as a sole source of data. Mr. Davis also mentioned his letter to Mr. McGinn, a copy of which he furnished Chief Rowan, arguing that Commissioner McGinn was disqualified from taking part and voting in this proceeding under Government Code Sections 87100 and 87103, due to a conflict of interest because he sat on the Carpenters/Plastering JAC as an advisor and because he was employed by that program's training fund. This issue has allegedly been unresolved, so he requested the Commissioner to recuse himself.

Mr. Shanley responded to Mr. Davis' statement by pointing out that the program seeking approval had sufficient plastering tools and capabilities. DAS Deputy Chief Forman recently visited their facility and watched a training class. Additionally, Mr. Shanley corrected the statistics he previously mentioned on 45

graduates for Southern California. He pointed out that it was 19 and is currently 17, less than half of what he earlier indicated.

Commissioner Hodess questioned about the federal approval of the need for the Carpenters/Plasters' program. He asked Mr. Shanley to describe the federal standards of need in approving a program.

Mr. Shanley responded that the Federal government determined that there was a need for more programs and that he did not support a monopoly of just one current program for the area.

Commissioner Hodess declared that the Federal Government did not have a need standard; however, the State does. He said that characterizing that the program had federal approval of a need for more programs was not relevant. He also brought up that 96 DAS 140s were submitted. There were 11 requests for the dispatch of apprentices that were made and 8 of them were filled. He asked why more requests weren't sent, if there was a need.

Mr. Shanley answered that, although he was not representing the contractors, he believed that because of the illegal agreements, the contractors were discouraged because when they requested for apprentices, the apprentices were stripped off after one week. He stated that the plasterers' union and the apprenticeship program were using this process as a means of organizing people. He argued that the fact that not all 11 requests were met clearly indicated that there may be a need for three or four more programs to start meeting the needs of the construction industry in Southern California.

Commissioner Garcia asked Chief Rowan if these standards were only for public works or both public and private works. Chief Rowan said that it did not make any distinction between private and public works. Commissioner Garcia stated that in 1986, the AGC of San Diego submitted standards for a parallel program to train apprentices in different crafts and the same arguments heard today were brought up then – that it will take away work from the current apprentices. The truth is the current apprentices still can not meet the present demand of the industry.

Chairperson Turchen wanted to hear from the coordinators of the respective programs.

Neil Halliday, coordinator for the Southwest Carpenters Training Fund, said that the contractors have been disappointed about not getting the apprentices on the job and not getting the proper training; consequently, they created an association and came to the carpenters' union for help. He believed there is a need. He encouraged the approval of the new program.

Clyde Ingram, plasterer apprenticeship instructor and coordinator of Southern California Plastering Institute, Local 200, declared that his organization fulfilled the need of the union contractors of Southern California for the last 20 years. He argued that carpenters should not be allowed to be plasterers.

Matt Tennis with Associated Builders and Contractors of California requested that the statement of the gentleman from the carpenters/plasterers program stating that there was a need for 3 or 4 more programs be reflected in the minutes of the meeting. He read a letter from his organization proposing to reject the appeal and uphold Chief Rowan's decision.

Carrie Bushman, counsel for CAAAT commented about two issues:

- Panel's proposed rejection of the Chief's reliance on EDD's statistics to support the finding of need. She discussed that one year ago, the panel upheld the use of these statistics in the WECA needs issue and was now reversing it. She stated that this inconsistency was not good for anybody involved in this process and for providing guidance to DAS.
- Whether or not Commissioner McGinn needs to recuse himself from voting on this issue. She declared that the council's decision not to recuse specific members based on bias was upheld by the Superior Court; therefore, there was no need for Commissioner McGinn to recuse himself, based on precedent.

Commissioner Callahan clarified on the precedent issue brought up by Ms. Bushman. He explained that both the PHCC and WECA applications were for statewide expansions so statewide economic data were used; however, this was not the case here because the expansion request involved 14-counties only. He said that it was not a reversal in precedent.

Robert Noto, apprenticeship coordinator for Bay Area Plastering Industry, JATC and chairman of the Plasterers statewide committee, stressed that the Council should represent the best interest of apprentices, not individual programs. He argued that it was in the best interest of apprentices that plasterers train only plasterers.

Tom Castleman, for the Plasterers Local 200, responded to the apprenticeship coordinator for the carpenters. He said that the contractors in San Diego had five projects, yet none of them had submitted any DAS 140 and made no requests for apprentices. He stated that they made no contributions to the training fund and would better serve the 73,000 carpenters rather than worry about 350 plasterers.

Ed DeBrito, director for training for the Southern California Cement Masons JATC, pointed out that the need for apprentices were being met because apprentices from other trades were being used for work other than their own, which is in clear violation of Labor Code Section 1777.5. According to him,

merit shops should not advocate for consistency because they had been turned down for violating the standards by using dry wallers for public works jobs.

Tom Nesbitt with Drywall, Finishers, Painters and Related Trades was concerned about the families of the current apprentices. He said that when the programs are split up, the companies the apprentices can work for are also split up; consequently, they will need to work only halftime and may lose their insurance. He articulated that they can't switch from one union to another and still maintain their insurance, pension, vacation pay, etc. He urged for the panel's recommendation.

Steve Silber, coordinator for Plumbers, Steamfitter, Refrigeration & Pipeline Local Union 342, declared that when teachers train the people they know how to train, they make sure that they are being trained right.

Tom Gutierrez identified himself as the coordinator for Insulators and Asbestos Workers for Southern California, the secretary to the Apprentice Coordinators of Southern California and to CACA. He was in favor of denying the approval of the plasterers' standards. He offered the help of the Coordinators' Association to the plasterers, should they need it.

After hearing from program coordinators, Chairperson Turchen allowed to hear from Mr. Davis again. Mr. Davis argued against Mr. Shanley on four issues: (1) The Federal government has nothing on record on the Carpenters' program's determination of need. He said, the inquiry should be confined to what is on record; (2) as to the alleged illegal agreement that the apprentices used, he alleged it was not illegal - it was discontinued because it was not in the best interest of the apprentices; (3) as to the graduation numbers, he said that whether a program has failed to supply apprentices or not, the focus should be on the continuous supply of apprentices for public works programs; (4) on Commissioner McGinn's disqualification issue, he believed that it is not because of bias but a conflict of interest.

Acting DIR Director John Rea suggested that Commissioner McGinn seek the advice of Julian Standen, counsel for CAC, in connection with the issues raised by Atty. Davis on the Commissioner's disqualification.

Commissioner McGinn declared that precedent had been set before he was appointed; therefore, he had every right to participate in the proceedings. He strongly believed that there is a definite need for more plasterers in Southern California. He stated, as the director of the training fund with more than 13,000 registered apprentices in his programs, the 70 apprentices were not going to have any material/financial effect for him personally. He felt he should be free to participate but decided to abstain from voting.

Commissioner Hodess stressed that in voting for or against the panel's decision, the Council should focus in protecting indentured apprentices, not unions, not jurisdiction. He argued that, if the carpenters' program was approved, it would

have a devastating impact on Southern California plasterers who could lose their jobs and benefits. He was in favor of the majority panel's decision.

Dick Freeman, representing the San Diego ABC Training Trust, stated that he disagreed with Commissioner Hodess. He stressed that CAC's function was to focus on the welfare of the present apprentices and to ensure that the future's need for apprentices is satisfactorily met.

Patty Garcia from the Office of Apprenticeship clarified that the Carpenters' JAC for the plasterer's program was indeed approved by the Federal government; however, there was no need standard determination in the federal regulations. She said that the Federal standards looked at the 22 points of standards of apprenticeship, some of which include: safety of apprentices, work processes and related instructions, etc. She explained that, in this regard, the National Office of the Bureau of Apprenticeship and Training concluded that the Carpenters' program, as presented, met the federal standards. The issue in question, however, was whether the program met state standards.

Commissioner Garcia requested Chairperson Turchen to clarify what the Commissioners were voting on.

Chairperson Turchen clarified that the vote was whether to approve the appeal and negate the Chief's decision. A "YES" vote was to overturn the Chief's decision and accept the majority panel's recommendation. A "NO" vote was to reject the appeal. The Commissioners voted as follows:

Bert Tolbert - Yes
Dina Kimble- No
Carole Cresci Colbert – Yes
Pat McGinn – abstained
Leo Garcia – No
Anne Quick – No
Neil Struthers – Yes
Wayne Lindholm – No
Marvin Kropke – Yes
Dick Zampa – Yes
William Callahan – Yes
Cedric Porter – No
Aram Hodess – Yes
Jose Millan – No
John Rea – No

7 / 7 tie was broken by Chairperson Max Turchen who voted No.

Result: The majority vote was to reject the appeal and uphold the Chief's decision - 8 votes to 7.

A 15-minute recess followed.

IV. NEW BUSINESS

Election of the New CAC Chairperson for 2007

The nominating committee, comprised of Commissioners Quick, Struthers and Turchen, nominated Cedric Porter. It was moved and seconded that Cedric Porter be nominated as the CAC Chairperson for 2007. The vote was unanimous. Commissioner Cedric Porter will be the next chairperson for 2007.

V. REPORTS OF ADMINISTRATIVE and COOPERATING AGENCIES (Continuation)

- A. Division of Apprenticeship Standards – Chief Dave Rowan
Power point presentation and report (See attached)
- B. Office of Apprenticeship (OA) – Pat Garcia (See attached)
- C. California Apprentice Coordinator's Association – Pat Pico (See attached)
A video focusing on the youth recruitment towards apprenticeship in the construction trades was shown.

VI. ADJOURNMENT

With no further business, Chairperson Turchen adjourned the meeting at 11:30 a.m.

The next CAC Quarterly Meeting will be on January 25-26, 2007, in Sacramento.

Respectfully submitted:

AUREA GALANG
Staff Aide